

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

CHARLES M. LEMP and )  
JUDITH M. DEVALL-LEMP, )  
Plaintiffs, ) 8:08CV35  
vs. ) ORDER  
OCWEN LOAN SERVICING, LLC, )  
Defendant. )

This matter is before the court sua sponte, pursuant to [NECivR 41.1](#), which states in pertinent part: “The court may at any time dismiss an action for lack of prosecution when it appears it is not being prosecuted with reasonable diligence.” The record reveals the complaint was filed on December 14, 2007, and service of the summons was executed on Mary Larue and Arlene Larue. **See** [Filing No. 1, Ex. 1 p. 7-13 - Complaint](#).<sup>1</sup> Thereafter, service of summons was executed on Green Tree Financial Servicing Corporation, Green Tree Servicing, LLC, and Quality Loan Servicing Corp. **See** [Filing Nos. 23, 24](#) and [25](#). On May 8, 2008, a Clerk’s Entry of Default was entered against Green Tree Financial Servicing Corporation, Green Tree Servicing, LLC, and Quality Loan Servicing Corp. **See** [Filing No. 28](#). Since that time, the plaintiffs have voluntarily dismissed all other defendants. **See** [Filing Nos. 20, 36](#) and [38](#).

In any event, it remains the plaintiffs' duty to go forward in prosecuting the case by, for example, filing a motion for entry of judgment against Green Tree Financial Servicing Corporation, Green Tree Servicing, LLC, and Quality Loan Servicing Corp., pursuant to [Fed. R. Civ. P. 55\(b\)](#) and [NECivR 55.1\(b\) or \(c\)](#). Alternatively, the plaintiff may voluntarily dismiss the action against these defendants pursuant to [Fed. R. Civ. P. 41\(a\)](#) or be subject to involuntary dismissal pursuant to [Fed. R. Civ. P. 41\(b\)](#). Upon consideration,

<sup>1</sup>As a convenience, this document contains certain cross-document hyperlinks to documents previously filed in this case. This document also contains links to the Nebraska local rules and the Federal Rules of Civil Procedure. The hyperlinked documents appear in blue underlined text. Except with regard to the local rules, access to the hyperlinked material is subject to fees pursuant to user agreements. The hyperlinks may be accessed without PACER fees by use of the public computer terminal in the Clerk's office.

**IT IS ORDERED:**

1. The plaintiff shall take appropriate action against the remaining defendants or show cause why this case should not be dismissed for failure to prosecute with regard to Green Tree Financial Servicing Corporation, Green Tree Servicing, LLC, and Quality Loan Servicing Corp. on or before the close of business on September 5, 2008.

2. The planning conference schedule for August 22, 2008, is canceled based upon the plaintiffs' motion for voluntary dismissal ([Filing No. 38](#)) of the defendant Ocwen Loan Servicing, LLC.

DATED this 22nd day of August, 2008.

BY THE COURT:

United States Magistrate Judge